

**DLA PIPER LLP (US)**

300 Campus Drive, Suite 100

Florham Park, NJ 07932-1039

Telephone No.: 973.520.2561

Fax No.: 973.520.2581

Attorneys for Defendants

*Derivative Portfolio Management LLC;*

*Derivative Portfolio Management, Ltd.;*

*DPM-Mellon, LLC; DPM-Mellon, Ltd.;*

*and Guy Castranova*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
	:	
IN RE: REFCO SECURITIES LITIGATION	:	07 MDL 1902 (JSR)
	:	
-----X	:	
-----X	:	
KENNETH M. KRYS, <i>et al.</i>	:	08 Civ. 7416 (JSR)
	:	
Plaintiffs,	:	
	:	
-against-	:	
	:	
ROBERT AARON, <i>et al.</i> ,	:	
	:	
Defendants.	:	
-----X	:	

**DECLARATION OF B. JOHN PENDLETON, JR.  
IN SUPPORT OF DPM DEFENDANTS' OPPOSITION TO PLAINTIFFS'  
MOTION TO DISMISS COUNTERCLAIMS**

**B. JOHN PENDLETON, JR.**, an attorney-at-law in the State of New Jersey, admitted *pro hac vice* in the United States District Court for the

Southern District of New York, and a member of the law firm of DLA Piper LLP (US), hereby declares as follows:

1 Attached hereto as Exhibit 1 is a true and correct copy of the February 28, 2006 Service Agreement between DPM-Mellon, LLC and DPM-Mellon, Ltd. (collectively, "DPM") and SPhinX Ltd. and other related entities (collectively, "SPhinX").

2. Attached hereto as Exhibit 2 is a true and correct copy of *Fabcon E., L.L.C. v. Stegla Group, Inc.*, Civ. No. 10-4601(DRD), 2011 WL 773038 (D.N.J. Feb. 25, 2011).

3. Attached hereto as Exhibit 3 is a true and correct copy of *Broadhurt Invs., LP v. Bank of N.Y. Mellon*, No. 09 Civ. 1154(PKC), 2009 WL 4906096 (S.D.N.Y. Dec. 14, 2009).

3. Attached hereto as Exhibit 4 is a true and correct copy of *Goshawk Dedicated Ltd. v. Bank of N.Y.*, No. 06 Civ. 13758(MHD), 2010 WL 1029547 (S.D.N.Y. March 15, 2010).

4. Attached hereto as Exhibit 5 is a true and correct copy of *CBS Corp. v. Eaton Corp.*, No. 07 Civ. 11344(LBS), 2010 WL 1375169 (S.D.N.Y. Mar. 30, 2010).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 30, 2011.

By: s/ B. John Pendleton, Jr.  
**DLA PIPER LLP (US)**  
B. John Pendleton, Jr.

300 Campus Drive, Suite 100  
Florham Park, NJ 07932-1039  
*Attorneys for Defendants  
Derivative Portfolio  
Management LLC; Derivative  
Portfolio Management, Ltd.;  
DPM-Mellon, LLC; DPM-  
Mellon, Ltd.; and Guy  
Castranova*